

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

CRIMINAL PRETRIAL  
SCHEDULING ORDER

ANDREW RUSSO, DENNIS DELUCIA,  
EMANUELE FAVUZZA, THEODORE  
PERSICO, JR., JOSEPH SAVARESE, RALPH  
SCOPO, JR., ILARIO SESSA, ANGELO  
SPATA,

11-CR-30 (KAM)

Defendants.

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The defendants in the above captioned criminal case having interposed a plea of not guilty, the parties are directed:

1. To **APPEAR** with counsel ready to **SELECT A JURY** and to **TRY THE CASE** on **January 14, 2013 at 9:00 a.m.** in Courtroom 6G North on the 6th Floor, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York.
2. To **SERVE** and **FILE VIA ECF** all pre-trial motions in accordance with the following schedule: (a) the moving party shall file its motion by **October 1, 2012**; (b) the opposing party shall file its response by **October 29, 2012**; (c) the moving party shall file its reply, if any, by **November 5, 2012**; and (d) oral argument and an evidentiary hearing, if necessary, shall take place on **November 26, 2012 at 10:00 a.m.** The parties shall also provide two courtesy copies of all motion papers to chambers.
3. The parties are directed to **MEET** and **CONFER** to make every effort to (i) resolve any **OBJECTIONS** regarding the admissibility of evidence; (ii) enter into **STIPULATIONS OF FACT**, including stipulations as to the authenticity of all documents intended to be offered in evidence at trial; (iii) resolve any remaining disputes prior to bringing those disputes to the court's attention; and (iv) if **TRANSCRIPTS** are to be used either as substantive evidence or aids to the jury, a single copy shall be appropriately marked by all parties to indicate (1) portions to be read, and (2) portions objected to.
4. **No later than December 10, 2012**, each party shall **SERVE** and **FILE VIA ECF**, or the parties shall confer and jointly file via ECF, and provide two courtesy copies to chambers of:
  - (a) a **LIST OF EXHIBITS** and a **LIST OF WITNESSES**, including, with respect to any expert witnesses, a description of qualifications and a summary of expected testimony;
  - (b) a **LIST OF PERSONS**, including ATTORNEYS, CORPORATIONS, INSTITUTIONS, PLACES, and SCIENTIFIC, TECHNICAL or COLLOQUIAL

TERMS that will be present or referred to by counsel or witnesses during the trial, for the use of the court in questioning prospective jurors and to assist the court reporter in recording the proceedings;

- (c) VOIR DIRE requests;
- (d) REQUESTS TO CHARGE AND ANY OBJECTIONS to same;
- (e) PROPOSED VERDICT FORMS, SPECIAL VERDICT FORMS, AND PROPOSED SPECIAL INTERROGATORIES, if applicable;
- (f) A JOINT STATEMENT OF THE CASE AND ANY STIPULATIONS OF FACT OR NOTICES OF OBJECTIONS to authenticity of documents; and
- (g) MEMORANDA OF LAW concerning novel issues of substantive or evidentiary law which either party anticipates will be raised at the trial.

5. To **APPEAR** with counsel who is to try the case at a **FINAL PRETRIAL CONFERENCE** on **January 7, 2013 at 10:00 a.m.** in Courtroom 6G North on the 6th Floor, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York.

- (a) **Before the pretrial conference**, each party shall:
  - (i) PHYSICALLY MARK for identification (*e.g.*, GX. 1<sup>ID</sup>, DX A<sup>ID</sup> followed by the docket number), using exhibit tabs supplied by the court, each item of physical or documentary EVIDENCE which the party intends to offer in evidence at trial, including any learned treatises or publications to be introduced pursuant to Federal Rule of Evidence 803(18);<sup>1</sup>
  - (ii) If TRANSCRIPTS are to be used either as substantive evidence or aids to the jury, a single copy shall be appropriately marked by all parties to indicate (i) portions to be read, and (ii) portions objected to; and
  - (iii) Make every effort to enter into STIPULATIONS OF FACT, including stipulations as to the authenticity of all documents intended to be offered in evidence at

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<sup>1</sup>If any party wishes to present marked exhibits to the jury in digital form, the parties are directed to meet with the Chief Deputy Clerk for Automation Services and my case manager at least 20 days prior to the commencement of the trial to review the available equipment in Courtroom 6G North for the presentation of digital evidence and to determine what equipment the court can provide and what equipment the parties must provide. Counsel should be accompanied by the audio-visual personnel who will be operating any equipment that will be used at trial. Not later than 10 days before the commencement of trial, or by **January 4, 2013**, the parties shall file a confirmation in writing via ECF that this meeting has occurred and a general outline of the understandings reached.

trial; give notice as to all objections to authenticity so as to permit the adversary to have available at trial all necessary foundation witnesses.

(b) **At the pretrial conference, each party shall:**

- (i) BRING FOR INSPECTION and EXCHANGE with opposing counsel all exhibits marked for identification, including any disc upon which the exhibits have been recorded in digital form, if the party intends to present the evidence at trial digitally; and
- (ii) PROVIDE the court with two courtesy copies of each party's pre-marked exhibits.

6. **No later than January 7, 2013**, counsel for the government shall **PROVIDE** to defense counsel, with two courtesy copies to chambers, all material required to be produced at trial pursuant to 18 U.S.C. § 3500, appropriately marked for identification (*e.g.*, GX 3500-1<sup>1D</sup>).

7. Defendants in criminal cases are required to appear at all stages of the proceedings, including the return dates of motions, hearings, pretrial conferences and trial, unless excused by the court with the consent of the government. Failure to comply with this provision may result in revocation of bail.

**SO ORDERED.**

Dated: May 18, 2012  
Brooklyn, New York

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/s/  
Hon. Kiyo A. Matsumoto  
United States District Judge  
Eastern District of New York